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CUSTOMER NO. 31013 177079-00057

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Phyllis Leithem et al.

Serial No. : 09/334,125

Filed : June 15, 1999

For : ABSORBENT PRODUCTS AND METHODS OF PREPARATION THEREOF

Group Art Unit: 3761

Examiner : J. F. Stephens

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450,

on December 15, 2010

William J. Spatz, Reg. No. 30,108
Name of Applicant, Assignee or Registered Representative

Signature

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

This is in response to the Notice of Allowance issued in the referenced Application on November 30, 2010.

The Notice of Allowability which accompanied the Notice of Allowance denied Applicants' pending Request for Interference as follows:

> Applicant's request for a declaration of interference will not be granted as the subject matter of the patent and the instant application are not the same. The examiner does not consider the claims between the present application and the 5766159 patent to be interfering because the 5766159 patent does not claim the pulp is not subjected to crosslinking as is claimed by the present application 09334125. So at least for this subject matter, the inventions are not the same.

Applicants respectfully submit that the Examiner has applied an improper standard to Applicants' Request for Interference. As indicated by 37 CFR 41.203(a) and MPEP 2301.03, "[a]n interference exists if the subject matter of a claim of one party would, if prior art, have

anticipated or rendered obvious the subject matter of a claim of the opposing party and vice versa." Accordingly, it is improper to deny Applicants' Request for Interference because the inventions claimed in the present application and in U.S. Patent No. 5,766,159 are not the same.

Notwithstanding the foregoing, Applicants are **not** requesting reconsideration of the Examiner denial of their Request for Interference, because the present application no longer qualifies for interference with U.S. Patent No. 5,766,159. Under 35 U.S.C. §135 an interference can be declared only between pending applications, or a pending application and an unexpired patent. Since the grace period for the payment of the final maintenance fee for U.S. Patent No. 5,766,159 passed on June 16, 2010 without the fee having been paid, the '159 Patent has expired and no longer qualifies for interference. Accordingly, Applicants will not challenge the denial of their Request for Interference.

Respectfully submitted,

KRAMER LEVIN NAFTALIS & FRANKEL LLP
CUSTOMER NO. 31013

Attorneys for Applicants

Dated: December 15, 2010 By: _____

William J. Spatz, Reg. No. 30,108
1177 Avenue of the Americas
New York, New York 10036
(212) 715-9257(telephone)